



Docket No.: 3351-029A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

MICHAEL D LADWIG

U.S. Patent Application No. 10/017,739

Filed: December 18, 2001

For: SYSTEM AND METHOD FOR ENSURING AND MANAGING SITUATION AWARENESS

:
:
: Confirmation No. 9729
:
: Group Art Unit: 2184
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: Examiner: BONZO, BRYCE P
:

TRANSMITTAL OF APPEAL BRIEF

Box Patent Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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APR 30 2004

Technology Center 2100

Sir:

Submitted herewith in triplicate is the Appeal Brief in support of the Notice of Appeal filed February 27, 2004. A credit card authorization form in the amount of \$330.00 to cover the cost of the the Appeal Brief fee is attached.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Attn: BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT'S BRIEF (37 C.F.R. § 1.192)

This brief is in furtherance of the Notice of Appeal, filed in this case on February 27, 2004.

The fees required under § 1.17(f) and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is transmitted in triplicate.

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This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 1.192(c)):

- I. Real Party in Interest.
- II. Related Appeals and Interferences.
- III. Status of Claims.
- IV. Status of Amendments.
- V. Summary of Invention.
- VI. Issue.
- VII. Grouping of Claims.
- VIII. Arguments.
- IX. Summary
- X. Prayer for Relief
- XI. Appendix of Claims Involved in the Appeal.

The final page of this brief bears the attorney's signature.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is PRC Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

Claims 1, 2, 4, 5-8, 14-20, 22-24 and 26-32 are pending in this application. Claims 1, 4-6, 8, 14-19, 22, 24, 26, 28, 29 and 32 have been finally rejected in the Office Action dated September 30, 2003. Claims 7 and 30 were objected to while containing allowable subject matter. An Advisory Action was mailed on February 5, 2004.

A. Total Number of Claims in Application

There is a total of 24 claims in the application, which are identified as claims 1, 2, 4-8, 14-20, 22-24 and 26-32.

B. Status of all the claims

1. Claims cancelled: 3, 9-13, 21, 25.
2. Claims withdrawn from consideration but not cancelled:
3. Claims objected to while containing allowable matter: 7 and 30
4. Claims rejected: 1, 2, 4-6, 8, 14-20, 22- 24, 26-27, 28, 29, 31 and 32.

C. Claims on Appeal

Claims on appeal are claims 1, 2, 4-6, 8, 14-20, 22- 24, 26-27, 28, 29, 31 and 32.

IV. STATUS OF AMENDMENTS

No amendments have been made to the claims subsequent to the final rejection dated September 30, 2003.

V. SUMMARY OF INVENTION

The present invention relates to the needs of situation awareness users. Situation awareness solves a wide variety of user problems including terrorist activity analysis, low intensity conflict monitoring, military intelligence and strategic threat assessment. The present invention is directed to a method and apparatus in which one or more data streams are sent to a computer 170 and the data streams are sorted using a rule base into streams representative of events. The incoming data stream can be sent by a gatherer agent 190 (page 9, lines 11-18). The incoming data stream can also be incoming message traffic (Fig. 2A) such as e-mail and other types of message traffic data, which is heterogeneous 202, 204, 206. The incoming message traffic data is then sorted into event streams 220, 222, 224 and can be displayed as event streams on a timeline. Actions can be taken based upon specified events. Thus, events from disjointed sources can be sorted and displayed in a unified manner in which a user can readily and quickly know which events have occurred for a particular issue, such as for a forest fire, a hospital patient, etc. Rules are applied to the data stream for sorting data representative of events or for taking one or more actions based on a specified event. In the past, there has been no generic user environment which can accept heterogeneous data and provide situation awareness.

VI. ISSUE

A. The Rejection

Claims 1, 4-6, 8, 14-19, 22, 24, 26, 28 and 29 have been finally rejected as being unpatentable under 35 USC 102(e) as being anticipated by McCreery.

Claims 2, 14, 20, 23, 25 and 27 have been finally rejected as being unpatentable under 35 USC 103 (a) as being unpatentable over McCreery .

B. The issues which arise in this Appeal require resolution by the Honorable Board of Patent Appeal and Interferences (The Board) are:

Whether claims 1, 4-6, 8, 14-19, 22, 24, 26, 28 and 29 are unpatentable under 35 USC 102 (e) as being unpatentable over McCreery.

Whether claims 2, 14, 20, 23, 25 and 27 are unpatentable under 35 USC 103(a) as being unpatentable over McCreery.

VII. GROUPING OF CLAIMS

The claims do not stand or fall together. The patentability of claims 2, 4, 5, 6, 16 are argued separately and the reasons as to why Appellant believes the claims to be separately patentable are set forth in the arguments section of this brief. The remaining claims are not argued separately and may stand or fall together. Claims 22, 24 and 26 fall with claim 1 because these independent claims have similar limitations.

VIII. ARGUMENTS

Issue

Claim 1

In the Office Action mailed September 30, 2003, regarding claim 1, the Examiner asserts that McCreery discloses gathering heterogeneous data (column 4, lines 48-63; column 5, lines 1-10) as directed by the presence (column 4, lines 55-56; column 4, lines 45-47).

Claim 1 first requires gathering heterogeneous data, as directed by the presence, at two or more remote computers and placing the gathered data in the data stream and forwarding the data stream to the presence. By contrast, McCreery captures and analyzes data packets transmitted along the network transmission medium between nodes (column 2, lines 50-54). Although McCreery mentions “gather” in column 5, line 10, claims are not to be analyzed using an ipsissimis verbis test. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As required by claim 1, the heterogeneous data is gathered as directed by the presence at two or more remote computers and is not intercepted between nodes of computers as disclosed in McCreery.

Claim 1 further requires applying rules to the at least one data stream at the presence for sorting data representative of the events and for taking one or more actions based on a specified event. McCreery does not take any action was based on the events. Therefore, the rejection of claim 1 should be reversed.

Claim 2

Claim 2 depends from claim 1 and further recites displaying events associated with a selected data stream on a timeline. The prior art reference fails to disclose this step in combination with the steps recited in claim 1. Therefore, the rejection of claim 2 should be reversed.

Claim 4

Claim 4 said gathering step is performed by an agent. The prior art reference fails to disclose this step in combination with the steps recited in claim 1. Therefore, the rejection of claim 4 should be reversed.

Claim 5

Claim 5 requires hunting for a predetermined Data at a remote location and placing the hunted data in the data streaming for in the data stream to the computer. The prior art reference fails to disclose this step in combination with the steps recited in claim 1. Therefore, the rejection of claim 5 should be reversed.

Claim 6

Claims 6 requires said hunting step is performed by an agent. The prior art reference fails to disclose this step in combination with the steps recited in claim 1. Therefore, the rejection of claim 6 should be reversed.

Claim 16

Claim 16 requires a rule includes a criteria component and an action component. The prior art reference fails to disclose this step in combination with the steps recited in claim 1. Therefore, the rejection of claim 16 should be reversed.

IX. SUMMARY

For the reasons argued supra. Appellant respectfully submits that the Examiner did not establish the existence of the limitations in the cited prior art to anticipate under 35 USC §102 or establish the requisite motivation and support in a prima facie case of obviousness under 35 USC § 103. Primarily, McCreery does not gather data or take actions based on the data.

X. PRAYER FOR RELIEF

Based on the foregoing, Appellant respectfully solicits the Honorable Board to reverse the Examiner 's rejections under 35 USC 102 and 35 USC 103.

Conclusion

For the extensive reasons shown above, Appellant respectfully requests the rejection be reversed.

Each of the Examiner's rejections has been traversed. Appellant respectfully submits that all claims on appeal are considered patentable over the applied art of record. Accordingly, reversal of the Examiner's Final Rejection is believed appropriate and courteously solicited.

If for any reason this Appeal Brief is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned, Applicant's attorney of record.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
LOWE HAUPTMAN GILMAN & BERNER, LLP

A handwritten signature in black ink, reading "Kenneth M. Berner". The signature is written in a cursive, flowing style.

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Date: April 27, 2004

XI. APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

1. A method of monitoring a computer network for specified events at a presence, comprising:

gathering heterogeneous data, as directed by the presence, at two or more remote computers and placing the gathered data in a data stream and forwarding the data stream to the presence;

receiving, at the presence, the at least one data stream sent from the two or more remote computers, the data stream including data representative of events; and

applying rules to the at least one data stream at the presence for sorting data representative of events and for taking one or more actions based on a specified event.

2. The method of claim 1, comprising displaying events associated with a selected data stream on a time line.

4. The method of claim 1, wherein said gathering step is performed by an agent.

5. The method of claim 1, comprising hunting for predetermined data at a remote location and placing the hunted data in a data stream and forwarding the data stream to the computer.

6. The method of claim 5, wherein said hunting step is performed by an agent.

8. The method of claim 1, wherein the at least one data stream includes message traffic.

14. The method of claim 1, comprising filing the sorted information in separate data stream files.

15. The method of claim 1, wherein an event is comprised of at least one of the following elements: type, title, datetime, keywords, summary, priority and duration.

16. The method of claim 1, wherein a rule includes a criteria component and an action component.

17. The method of claim 16, wherein the criteria component includes at least one criteria statement and to satisfy a rule either all, any or none of the at least one criteria statements need to be satisfied.

18. The method of claim 17, wherein at least one action is taken if the at least one rule is satisfied.

19. The method of claim 1, wherein the data in the event data stream is received in a standardized format.

20. The method of claim 14, comprising displaying an event stream using information stored in stored data stream files.

22. An article usable to monitor a computer network for specified events at a presence, comprising:

at least one sequence of machine executable instructions;

a medium bearing the executable instructions in machine readable form, wherein execution of the instructions by one or more processors causes the one or more processors to:

gather heterogeneous data, as directed by the presence, at two or more remote computers and place the gathered data in a respective data stream to the presence;

receive at least one data stream at the presence, the data stream including data representative of events; and

apply rules to the data stream at the presence, for sorting data representative of events and for taking one or more actions based on a specified event.

23. The article of claim 22, comprising causing the processor to display events associated with a selected data stream on a time line.

24. A computer architecture for monitoring a computer network at a presence for specified events, comprising:

gathering means, at two or more remote computers, for gathering heterogeneous data, as directed by the presence, and placing the data in a respective data stream and forwarding the data stream to the presence;

receiving means, at the presence, for receiving at least one data stream at a computer, the data stream including data representative of events; and

applying means, at the presence, for applying rules to the at least one data stream for sorting data representative of events and for taking one or more actions based on a specified event.

26. A computer system usable to monitor a computer network for specified events at a presence, comprising:

a processor; and

a memory coupled to said processor, the memory having stored therein sequences of instructions, which, when executed by said processor, causes said processor to perform the steps of:

gathering heterogeneous data, as directed by the presence, at two or more remote computers and placing the gathered data in a respective data stream to the presence;

receiving at least one data stream at the presence, the data stream including data representative of events; and

applying rules to the data stream at the presence for sorting data representative of events and for taking one or more actions based on a specified event.

27. The computer system of claim 26, comprising causing the processor to display events associated with a selected data stream on a time line.

28. The method of claim 1, wherein said gathering step includes collecting/generating data at the two or more remote computers.

29. The method of claim 1, wherein said gathering and receiving step are performed in real-time.

31. The method of claim 1, wherein the action is automatically brought to the attention of the user.

32. The method of claim 31, wherein alert including one of an alert window, flashing icon, email and beeper notification is used automatically.